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Local Counsel for the Reorganized Debtors

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re

THE RHODES COMPANIES, LLC, aka
"Rhodes Homes," et al.,

Reorganized Debtors.

☒ Affects all Debtors
☐ Affects the following Debtors

Chapter 11

Case No. BK-S-09-14814-LBR
(Jointly Administered)

STIPULATION TO VACATE THE
BRIEFING SCHEDULE AND
EVIDENTIARY HEARING REGARDING
THE GREENWAY PARTNERS CLAIM
AND THE SCHEDULED CLAIMS

Current Hearing Date: 12/5/2011
Current Hearing Time: 9:30 a.m. (PST)
Courtroom 1

James M. Rhodes ("Rhodes"), by and through his undersigned counsel, Fabian & Clendenin, P.C., and the above-captioned reorganized debtors (the "Reorganized Debtors"), by and through their undersigned counsel, Kolesar & Leatham and Akin Gump Strauss Hauer & Feld LLP (collectively, the "Parties"), respectfully submit this Stipulation to Vacate the Briefing Schedule and Evidentiary Hearing Regarding the Greenway Partners Claim and the Scheduled Claims, and agree and stipulate as follows:

WHEREAS, on August 2, 2011, this Court held a hearing (the "Hearing") regarding the Reorganized Debtors' objection to Rhodes's proof of claim (the "Proof of Claim") seeking, among other things, \$868,849 allegedly advanced to Greenway Partners, LLC (the "Greenway Partners Claim") and continued the hearing with respect to certain Scheduled Claims unrelated to the Proof

1 of Claim. The Greenway Partners Claim and the Scheduled Claims are collectively referred to
2 herein as the “Remaining Claims”;

3 WHEREAS, the Hearing on the Remaining Claims was continued to September 27, 2011;

4 WHEREAS, on September 27, 2011, this Court heard further arguments with respect to the
5 Greenway Partners Claim and initial arguments regarding certain obligations reflected in the
6 Reorganized Debtors’ April 30, 2009 schedules of assets and liabilities—specifically, Rhodes
7 Homes Arizona’s alleged obligation to compensate Rhodes for certain services (the “Compensation
8 Claim”), Pinnacle Grading, LLC’s alleged obligation to make certain equipment rental payments to
9 Pinnacle Equipment Rental, LLC (the “Pinnacle Equipment Claim”), and Heritage Land Company’s
10 alleged obligation to repay Sedora Holdings, LLC for its payment of certain litigation expenses (the
11 “Sedora Claim” and, together with the Compensation Claim and the Pinnacle Equipment Claim, the
12 “Scheduled Claims”);

13 WHEREAS, on September 27, 2011 this Court heard arguments with respect to the
14 declaration of Christopher Stephens, filed on behalf of Rhodes (the “Declaration”);

15 WHEREAS, for the reasons set forth in the transcript, this Court sustained the Reorganized
16 Debtors’ objection as to the Pinnacle Equipment Claim and ordered that the declaration of
17 Christopher Stephens be stricken from the record;

18 WHEREAS, with respect to the Greenway Partners Claim, the Compensation Claim and the
19 Sedora Claim, this Court held that a material issue of fact remains with respect to whether or not
20 there was a course of conduct sufficient to establish the existence of a contract between the Parties;

21 WHEREAS, an evidentiary hearing with respect to the Greenway Partners Claim, the
22 Compensation Claim and the Sedora Claim has been scheduled for December 5, 2011 at 9:30 a.m.
23 (PST) (the “Evidentiary Hearing”);

24 WHEREAS, on November 15, 2011, the Parties filed a stipulation and order regarding the
25 briefing schedule for the Greenway Partners Claim and the Scheduled Claims (the “Stipulation”);

26 WHEREAS, since the scheduling of the Evidentiary Hearing and the filing of the
27 Stipulation, the Parties have engaged in arm’s-length settlement negotiations with respect to the
28 Greenway Partners Claim and the Scheduled Claims;


1 WHEREAS, the Parties have reached an agreement in principle with respect to the
2 Scheduled Claims and the Greenway Partners Claim (the "Settlement Agreement");

3 WHEREFORE IT IS HEREBY STIPULATED AS FOLLOWS:

- 4 1. The Parties request to vacate the current briefing schedule contained in the Stipulation.
5 2. The Parties request to vacate the Evidentiary Hearing currently scheduled for December 5,
6 2011 at 9:30 a.m. (PST).
7 3. The Parties and/or the Reorganized Debtors will file a 9019 motion with respect to the
8 Settlement Agreement with this Court no later than December 1, 2011.

9 **SUBMITTED BY:**

10 **KOLESAR & LEATHAM**

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